

Telecommunications and Other Matters Amendment Bill

Government Bill

As reported from the Economic Development, Science and Innovation
Committee

Commentary

Recommendation

The Economic Development, Science and Innovation Committee has examined the Telecommunications and Other Matters Amendment Bill and recommends that it be passed. We recommend all amendments unanimously.

About the bill as introduced

The Telecommunications and Other Matters Amendment Bill seeks to ensure that all telecommunications providers who service New Zealand consumers are explicitly subject to relevant obligations in telecommunications legislation, regardless of where they, or the infrastructure they rely on, are based. It is an omnibus bill that would amend the Telecommunications Act 2001, the Telecommunications (Interception Capability and Security) Act 2013 (TICSA), and the Radiocommunications Act 1989.

The bill as introduced would make clear that overseas telecommunications providers are subject to regulatory obligations under the following provisions in the Telecommunications Act:

- provisions relating to the telecommunications development levy and the levy used to pay regulatory costs
- Part 7 of the Act, which relates to the provision of retail services to New Zealand consumers
- regulations made under Part 5 of the Act that apply to the services offered by providers, such as minimum requirements for emergency call services
- Part 2 of the Act, where the overseas provider is considered an access seeker or access provider, or where the provider's service is made a designated or specified service under Schedule 1 of the Act.

The bill would also clarify that, under the TICSAs, network operators and service operators can be based in New Zealand or overseas.

The bill would further establish an enforcement mechanism for breaches of telecommunications legislation, so that radio and spectrum licences may be revoked, suspended, or restricted if existing enforcement mechanisms in the Acts are impracticable.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We wish to bring the House's attention to several issues relating to clause 5 and Schedule 3 of the bill as introduced, which we discuss in more detail later in this commentary.

Proposed amendments

This commentary covers the main amendments we recommend to the bill as introduced. We do not discuss most minor or technical amendments. At the end of this commentary we discuss some minor amendments that we recommend in response to submissions.

Powers to address non-compliance

Clause 5 of the bill would insert Part 7A (sections 65A–65I) into the Radiocommunications Act. This would allow the Government to address non-compliance by enforcing certain telecommunications regulatory obligations. Proposed new section 65F would establish the right of the Secretary (the chief executive of the Ministry of Business, Innovation and Employment) to revoke or restrict licences due to non-compliance.

Natural justice protections

Submitters expressed concern about the lack of explicit natural justice protections in the bill as introduced. For example, the Law Society noted that the bill would neither expressly require the Secretary to give notice to affected parties, nor provide an opportunity for affected parties to be heard before the Secretary used the enforcement mechanism. Submitters were also concerned about the accuracy of the information that the Secretary would rely on. They noted that the information would not have been independently reviewed, and that the affected parties may not have been given an opportunity to correct it.

We consider that Part 7A can be improved to allow for natural justice and reduce the risk of misuse of the proposed enforcement power. We recommend adding subsections (3) and (4) to proposed new section 65F so that the Secretary could not exercise the power to revoke or restrict a licence without first giving written notice to the alleged non-compliant provider (and to the licence holder, if they are not the same party). The notice should:

- describe the alleged non-compliance and state that the Secretary is considering using the power to address it

- explain why and how the power may be exercised
- provide an opportunity for the affected party to give feedback.

Ability of other regulators to request enforcement

Proposed section 65E would enable other regulators (a surveillance agency or the Commerce Commission) to request that the Secretary exercise the enforcement power. Submitters expressed concern that, without judicial oversight, this ability could risk bypassing legislative checks and balances. We had similar concerns about the lack of explicit guidance. We agree with the policy intent of the bill; that the enforcement power should be used as a last resort.

We recommend amending section 65E and inserting subsections (1A) and (3) to require that before requesting that the Secretary exercise the enforcement power, the surveillance agency or Commerce Commission must have:

- explored all enforcement mechanisms available for addressing the non-compliance
- identified practical difficulties with those mechanisms
- decided that enforcement under Part 7A is preferable to the other mechanisms
- supplied the Secretary with evidence of the other enforcement mechanisms that were explored, and the practical difficulties identified.

We also recommend inserting subsection (4) to make clear that a “practical difficulty” would not include the standard costs of proceedings in New Zealand or administrative convenience.

Considerations before using the enforcement power

Section 65G(1) would establish what the Secretary must consider before exercising the enforcement power in section 65F. Subsection (2) would allow the Secretary, when considering these matters, to rely solely on summary information provided by the surveillance agency or the Commerce Commission.

Submitters were concerned about the accuracy of information that the Secretary would rely on. They noted that affected parties may not have seen the information, nor been given an opportunity to correct it. The Law Society stated that decisions based on summary information, without explicit rights of participation and review, risk undermining confidence in the proposed regime and exposing decisions to judicial challenge. We consider that clause 65G as introduced would leave the enforcement power open to misuse.

We recommend amending section 65G(2) and inserting subsection (3) to provide that the Secretary may consider feedback from the non-compliant provider and any other parties they consider relevant to inform their consideration of the matters set out in subsection (1).

Jurisdictional considerations

Two submitters expressed concern that section 65F(1)(b) as introduced involves a test based on the recipients of a service (“persons in New Zealand”) and does not articulate the jurisdictional limits of the test. We consider that the Secretary should consider jurisdictional reasons for non-compliance before deciding whether to revoke or restrict a licence.

We recommend inserting section 65G(1)(e) to require the Secretary to consider, if the non-compliant provider is outside New Zealand, the extent to which the non-compliance results from their need to comply with the laws of a jurisdiction outside New Zealand.

Acknowledgement of jurisdictional issues

Section 24 of the Telecommunications (Interception Capability and Security) Act (TICSA) relates to the duty of network operators and service providers to assist with the execution of an interception warrant. Section 24(8) acknowledges that nothing in section 24 affects the application of the common law defence of foreign state compulsion to a service provider outside New Zealand.

We consider that, given the changes this bill would make to expand the TICSA’s scope to international network operators, it would be sensible to widen the acknowledgement in subsection 24(8) so it also applies to network operators, and to have it apply to all network operator and service provider obligations in the TICSA, rather than only to section 24’s duty to assist.

We recommend inserting clause 25, which would insert new section 121A (Common law defence of foreign state compulsion not affected) into the TICSA. New section 121A would establish that nothing in that Act affects the application of the common law defence of foreign state compulsion to a network operator or service provider outside New Zealand.

We further recommend inserting clause 23A to amend section 24(8) of the TICSA, specifically directing readers to section 121A if the common law defence of foreign state compulsion applies.

Ongoing consequences of non-compliance

In the bill as introduced, the power in section 65H would allow the Secretary or other decision-maker to take previous non-compliance into account when deciding on certain matters listed in proposed Schedule 1AB of the Radiocommunications Act. This power is intended to apply to non-compliant providers, who might have had their licence revoked or be restricted from accessing a particular radio spectrum licence (under the proposed enforcement mechanism). It would prevent them from immediately seeking a new licence so they could continue to deliver telecommunications services. We understand that there is nothing currently stopping providers from doing so, and to continue to allow it would undermine the proposed enforcement mechanism.

As introduced, the bill would not define the “previous non-compliance” that would invoke the power in section 65H. It could be interpreted as including minor non-com-

pliance with the Telecommunications Act or the TICSAs, or non-compliance that was immediately remedied. One submitter expressed concern that the power could mean that a single instance of non-compliance could have long-lasting commercial repercussions for an operator's activities in New Zealand. It suggested that this approach could risk discouraging remediation and cooperation, particularly where breaches are technical or isolated.

We consider that the power in section 65H should be limited to considering previous enforcement action under Part 7A. We recommend amending section 65H(2) so that the only type of non-compliance that the Secretary or other person may take into consideration when making the licensing decisions listed in Schedule 1AB is non-compliance that resulted in enforcement action under Part 7A.

Narrowing extra-territorial scope

Clause 15 of the bill as introduced would insert section 157(1A) into the Act. This would provide that the requirements set by regulations under existing section 157(1) could apply to all providers offering telecommunications services to consumers in New Zealand, regardless of whether the providers, or the infrastructure they rely on, are based in New Zealand or overseas.

We consider that this proposed extra-territorial power is too wide in the bill as introduced, and should apply only to regulations made under subsection 157(1)(ch) of the Act, which relates to 111 emergency call services. We consider it important for the effective and safe operation of the 111-calling system that any potential regulations would be effective when applying to overseas providers.

We recommend amending section 157(1) in clause 15 so that the regulation-making power that would apply extra-territorially be narrowed to only those regulations made under section 157(1)(ch), rather than any regulation made under section 157.

Specifying when non-compliance may result in action

Schedule 3 of the bill as introduced would insert Schedule 4 into the Telecommunications Act. Schedule 4 would specify provisions of the Act for which non-compliance may result in action under Part 7A of the Radiocommunications Act.

Clause 1(10) of proposed Schedule 4 states that regulations can identify a particular requirement as one that is subject to the proposed enforcement regime, which can revoke or restrict licences. We understand that, without amending the Act, this power would enable any type of new regulations made under section 157 of the Telecommunications Act to be added to the list of breaches that could result in a revocation or restriction of licence. We consider this potential power too wide.

Regulations made under section 157(1)(ch) of the Telecommunications Act can set minimum requirements for 111 emergency call services and specify who is subject to those requirements. We recommend amending the bill to narrow the power in clause 1(10) of proposed Schedule 4 so that it only applies to regulations made under subsection 157(1)(ch) of the Act.

Concerns about potential weakening of end-to-end encryption

Most of the submissions opposing the bill were concerned that its amendments would enable the Government to force messaging apps to break end-to-end encryption and release confidential information, or risk being blocked from operating in New Zealand. Submitters argued that Part 7A's enforcement mechanism would undermine end-to-end encryption.

We acknowledge the importance of end-to-end encryption in upholding freedom of speech and protecting cyber and national security. We do not consider that the bill's amendments would weaken end-to-end encryption, nor that the bill's intent is to break end-to-end encryption. The TICSAs are clear that, to comply with obligations under the Radiocommunications Act, network operators and service providers are not required to decrypt information that they did not encrypt themselves. This bill would not change that.

Some submitters who opposed the bill were concerned about the use of the word "rely" in Part 7A; for example, that the new enforcement mechanism can apply if a person "relies on" a radio licence or spectrum licence held by another person in order to provide telecommunications services to New Zealanders.

To make the bill's intent easier to understand, we recommend replacing the term "relies on" in proposed sections 65C(b)(iii) and 65F(1)(b). Our proposed wording reflects that the person must itself use the radio licence or a spectrum licence held by a third party to provide telecommunications services to New Zealanders. This would make it explicit that the enforcement mechanism could not apply to the providers of encrypted messaging apps that may rely on, but do not themselves use, radio spectrum.

Appendix

Committee process

The Telecommunications and Other Matters Amendment Bill was referred to this committee on 18 November 2025. We called for submissions on the bill with a closing date of 14 January 2026. We received and considered submissions from 4,932 interested groups and individuals. We heard oral evidence from 35 submitters. We acknowledge the efforts of all submitters and thank them for their engagement.

Advice on the bill was provided by the Ministry of Business, Innovation and Employment. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting.

Committee membership

Dr Parmjeet Parmar (Chairperson)

Dr Hamish Campbell

Reuben Davidson

Cushla Tangaere-Manuel

Dr Vanessa Weenink

Arena Williams

Scott Willis

Dr David Wilson

Related resources

The documents we received as advice and evidence are available on the Parliament website.

**Telecommunications and Other Matters Amendment
Bill**

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Paul Goldsmith

Telecommunications and Other Matters Amendment Bill

Government Bill

Contents

		Page
1	Title	3
2	Commencement	3

Part 1

Amendments to Radiocommunications Act 1989

3	Principal Act	3
4	New section 2A inserted (Transitional, savings, and related provisions)	4
	2A Transitional, savings, and related provisions	4
5	New Part 7A inserted	4

Part 7A

Enforcement of certain breaches of telecommunications legislation

Subpart 1—Preliminary provisions

65A	Purpose of this Part	4
65B	Application of this Part to licences and management rights for which manager is the Crown	4
65C	Application of this Part to service providers	4
65D	Interpretation of this Part	5
	Subpart 2—Revocation and restriction of licences for <u>alleged</u> non-compliance with other Acts	
65E	Other regulators may request Secretary to exercise power under this Part	6
65F	Power of Secretary to revoke or restrict licences for <u>alleged</u> non-compliance	7

**Telecommunications and Other Matters Amendment
Bill**

	65G	Considerations before exercising power in section 65F Subpart 3—Power to take <u>alleged</u> non-compliance into account in certain decision-making relating to licences or management rights for which manager is the Crown	8
	65H	Power to take <u>alleged</u> non-compliance into account in certain decision-making relating to licences or management rights for which manager is the Crown Subpart 4—Power to share information and documents	9
	65I	Sharing of information and documents	9
6		New Schedule 1AA inserted	10
7		New Schedule 1AB inserted	10

Part 2

Amendments to Telecommunications Act 2001

8		Principal Act	10
9		Section 5 amended (Interpretation)	10
10		Section 15 amended (Application of Commerce Act 1986 and Crown Entities Act 2004)	10
11		Section 18 amended (Purpose)	10
12		New section 18A inserted (Territorial scope of Part 2)	11
	18A	Territorial scope of Part 2	11
13		Section 80 amended (Interpretation)	11
14		New section 101A inserted (Territorial scope of Part 3)	11
	101A	Territorial scope of Part 3	11
14A		New section 156CAA inserted (Enforcement of certain breaches via Radiocommunications Act 1989)	12
	156CAA	Enforcement of certain breaches via Radiocommunications Act 1989	12
15		Section 157 amended (Regulations)	12
16		New section 158 inserted (Enforcement of certain breaches via Radiocommunications Act 1989)	12
	158	Enforcement of certain breaches via Radiocommunications Act 1989	12
17		New section 250 and cross-heading inserted	12
		<i>Miscellaneous</i>	
	250	Territorial scope of Part 7	12
18		New Schedule 4 inserted	12

Part 3

Amendments to Telecommunications (Interception Capability and Security) Act 2013

19		Principal Act	13
20		Section 3 amended (Interpretation)	13

21	New section 4A inserted (Territorial scope)	13
	4A Territorial scope	13
22	Section 9 amended (Network operators must ensure public telecommunications networks and telecommunications services have full interception capability)	13
23	Section 13 amended (Network operators with fewer than 4 000 customers)	13
23A	Section 24 amended (Duty to assist)	14
24	Section 90 amended (Enforcement notice may be issued for serious non-compliance)	14
25	New section 121A inserted (Common law defence of foreign state compulsion not affected)	14
	121A Common law defence of foreign state compulsion not affected	14
	Schedule 1	15
	New Schedule 1AA inserted into Radiocommunications Act 1989	
	Schedule 2	16
	New Schedule 1AB inserted into Radiocommunications Act 1989	
	Schedule 3	17
	New Schedule 4 inserted into Telecommunications Act 2001	

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Telecommunications and Other Matters Amendment Act **2025**.

2 Commencement

- (1) This Act comes into force on the day after Royal assent. 5
- (2) However,—
 - (a) **sections 9 and 14** (which relate to levies) come into force on **1 July 2026**; and
 - (b) **Part 3** (which amends the Telecommunications (Interception Capability and Security) Act 2013) comes into force 6 months after Royal assent. 10

Part 1

Amendments to Radiocommunications Act 1989

3 Principal Act

This **Part** amends the Radiocommunications Act 1989.

Telecommunications and Other Matters Amendment Bill		
Part 1 cl 4		
4	New section 2A inserted (Transitional, savings, and related provisions) After section 2, insert:	
2A	Transitional, savings, and related provisions The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.	5
5	New Part 7A inserted After section 65, insert:	
	Part 7A Enforcement of certain breaches of telecommunications legislation Subpart 1—Preliminary provisions	10
65A	Purpose of this Part The purpose of this Part is to enable the Secretary to enforce breaches by providers of telecommunications services of certain provisions of the Telecommunications Act 2001 and the Telecommunications (Interception Capability and Security) Act 2013.	15
65B	Application of this Part to licences and management rights for which manager is the Crown	
(1)	This Part applies to—	
(a)	radio licences; and	
(b)	spectrum licences that relate to a frequency, or a range of frequencies, for which the manager is the Crown.	20
(2)	However, this Part does not apply to any general user radio licence or general user spectrum licence.	
(3)	Subpart 3 also applies to management rights for which the manager is the Crown to the extent that they are referred to in Schedule 1AB .	25
65C	Application of this Part to service providers This Part applies if—	
(a)	the Secretary considers, on reasonable grounds, that a <u>an alleged non-compliant service provider</u> —	
(i)	has been served with an enforcement notice under section 90 of the Telecommunications (Interception Capability and Security) Act 2013 in respect of any serious <u>alleged non-compliance</u> ; or	30
(ii)	has breached a provision of the Telecommunications Act 2001 that is listed in Schedule 4 of that Act; and	

- (b) the alleged non-compliant service-provider has any of the following interests in a licence to which this Part applies (a **relevant licence**):
- (i) the person is the holder of a radio licence:
 - (ii) the person is a rightholder of a spectrum licence:
 - (iii) the person relies on transmits or receives radio waves, to provide telecommunications services to persons in New Zealand, on the frequency band specified in a radio licence or spectrum licence held by another person to provide telecommunications services to persons in New Zealand.

5

65D Interpretation of this Part

10

In this Part, unless the context otherwise requires,—

alleged non-compliance means the alleged non-compliance referred to in **section 65C(a)**

alleged non-compliant provider means a person referred to in **section 65C(a)** that is any of the following:

15

- (a) a network operator, or a service provider, within the meaning of section 3(1) of the Telecommunications (Interception Capability and Security) Act 2013:

- (b) a service provider within the meaning of section 5 of the Telecommunications Act 2001

20

end-user has the same meaning as in section 5 of the Telecommunications Act 2001

intermediary,—

- (a) in relation to the use of a radio licence to which this Part applies, means a person who, directly or indirectly, derives rights under the licence from a holder of the licence and who provides some or all of the rights to a an alleged non-compliant service-provider or to another intermediary:

25

- (b) in relation to the use of a spectrum licence to which this Part applies, means a person who, directly or indirectly, derives rights under the licence from a rightholder and who provides some or all of the rights to a an alleged non-compliant service-provider or to another intermediary

30

non-compliance means the alleged non-compliance referred to in **section 65C(a)**

non-compliant service provider means a person referred to in **section 65C(a)** that is any of the following:

35

- (a) a network operator, or a service provider, within the meaning of section 3(1) of the Telecommunications (Interception Capability and Security) Act 2013:

~~(b) a service provider within the meaning of section 5 of the Telecommunications Act 2001~~

surveillance agency has the same meaning as in section 3(1) of the Telecommunications (Interception Capability and Security) Act 2013

telecommunications service has the same meaning as in section 5 of the Telecommunications Act 2001.

5

Subpart 2—Revocation and restriction of licences for alleged non-compliance with other Acts

65E Other regulators may request Secretary to exercise power under this Part

(1) Any surveillance agency may request the Secretary to exercise the Secretary's powers under this Part by filing with the Secretary a description of the alleged non-compliance, including a copy of the enforcement notice served under section 90 of the Telecommunications (Interception Capability and Security) Act 2013.—

10

~~(a) a description of the non-compliance, including a copy of the enforcement notice served under section 90 of the Telecommunications (Interception Capability and Security) Act 2013; and~~

15

~~(b) an assurance that the surveillance agency or agencies have explored any other enforcement mechanisms for addressing the non-compliance and identified practical difficulties that mean enforcement under this Part is preferable.~~

20

(1A) However, the surveillance agency must,—

(a) before making a request, have—

(i) explored any other enforcement mechanisms for addressing the alleged non-compliance; and

25

(ii) identified practical difficulties with those mechanisms; and

(iii) decided that enforcement under this Part is preferable; and

(b) supply the Secretary with evidence of the other enforcement mechanisms that were explored and of the practical difficulties identified.

(2) The Commerce Commission may request the Secretary to exercise the Secretary's powers under this Part by filing with the Secretary a description of the alleged non-compliance with the provision of the Telecommunications Act 2001 that is listed in **Schedule 4** of that Act.—

30

~~(a) a description of the non-compliance with the provision of the Telecommunications Act 2001 that is listed in **Schedule 4** of that Act; and~~

35

~~(b) an assurance that the Commerce Commission has explored any other enforcement mechanisms for addressing the non-compliance and identified practical difficulties that mean enforcement under this Part is preferable.~~

- (3) However, the Commerce Commission must,—
- (a) before making a request, have—
 - (i) explored any other enforcement mechanisms for addressing the alleged non-compliance; and
 - (ii) identified practical difficulties with those mechanisms; and 5
 - (iii) decided that enforcement under this Part is preferable; and
 - (b) supply the Secretary with evidence of the other enforcement mechanisms that were explored and of the practical difficulties identified.
- (4) However, for the purposes of this section, **practical difficulties** do not include the standard costs of proceedings in New Zealand or administrative convenience. 10
- 65F Power of Secretary to revoke or restrict licences for alleged non-compliance**
- (1) If this Part applies to a relevant licence,—
- (a) the Secretary may revoke the licence, if the alleged non-compliant service-provider is the holder, or the rightholder, of the relevant licence: 15
 - (b) if the alleged non-compliant service-provider relies, to provide telecommunications services to persons in New Zealand, on transmits or receives radio waves, to provide telecommunications services to persons in New Zealand, on the frequency band specified in a radio licence or spectrum licence of which another person (**person A**) is the holder or a rightholder, the Secretary may permanently restrict the use of those rights under the licence by the alleged non-compliant service-provider by, for example,—
- (i) making the licence subject to a term, condition, or restriction that prohibits the use of those rights under the licence by the alleged non-compliant service-provider; or 25
 - (ii) requiring person A (or any intermediary who, directly or indirectly, derives rights under the licence from person A) to permanently restrict the use of those rights under the licence by the alleged non-compliant service-provider. 30
- (2) The Secretary may revoke the licence held by person A if the Secretary is satisfied that all or any of the rights under the ~~relevant~~ licence have been used in contravention of a restriction imposed under **subsection (1)(b)**.
- (3) However, the Secretary may not exercise a power under this section unless the Secretary— 35
- (a) considers it desirable to do so to address the alleged non-compliance; and

- ## 65G Considerations before exercising power in section 65F

- 8

- (3) The Secretary may seek feedback from other persons who the Secretary considers are likely to be affected and consider other information that the Secretary considers relevant.

Subpart 3—Power to take alleged non-compliance into account in certain decision-making relating to licences or management rights for which manager is the Crown

65H Power to take alleged non-compliance into account in certain decision-making relating to licences or management rights for which manager is the Crown

- (1) This subpart applies if the Secretary or any other person is making a decision specified in **Schedule 1AB** about any of the following:
- (a) a radio licence to which this Part applies:
 - (b) a spectrum licence that relates to a frequency, or a range of frequencies, for which the manager is the Crown and to which this Part applies:
 - (c) management rights for which the manager is the Crown to the extent that they are referred to in **Schedule 1AB**.
- (2) The Secretary or other person may take any relevant alleged non-compliance into account to the extent that it resulted in the Secretary exercising a power under **section 65F**.

Subpart 4—Power to share information and documents

65I Sharing of information and documents

- (1) A surveillance agency may provide to the Secretary any information, or a copy of any document, that the agency—
- (a) holds in relation to the performance or exercise of its functions, powers, or duties under the Telecommunications (Interception Capability and Security) Act 2013; and
 - (b) considers may assist the Secretary in the performance or exercise of the Secretary's functions, powers, or duties under this Part.
- (2) A surveillance agency may provide information, or a copy of a document, under this section only if the agency is satisfied that—
- (a) doing so will not substantially affect the performance of its other functions; and
 - (b) appropriate protections are or will be in place for the purpose of maintaining the confidentiality of anything provided (in particular, information that is personal information within the meaning of the Privacy Act 2020).

Telecommunications and Other Matters Amendment Bill	
Part 1 cl 6	
(3)	The Secretary may use the information, or a copy of the document, provided by the surveillance agency in the Secretary’s performance or exercise of the Secretary’s functions, powers, or duties under this Part.
(4)	This section applies despite anything to the contrary in any contract, deed, or document.
(5)	Subsections (1) to (3) do not authorise personal information to be disclosed in circumstances beyond those in information privacy principle 11 set out in section 22 of the Privacy Act 2020.
	Compare: 1986 No 5 s 99AA
6	New Schedule 1AA inserted
	Insert the Schedule 1AA set out in Schedule 1 of this Act as the first schedule to appear after the last section of the principal Act.
7	New Schedule 1AB inserted
	After Schedule 1AA, insert the Schedule 1AB set out in Schedule 2 of this Act.

Part 2

Amendments to Telecommunications Act 2001

8	Principal Act	
	This Part amends the Telecommunications Act 2001.	
9	Section 5 amended (Interpretation)	20
	In section 5, definition of liable person , replace “in New Zealand” with “to persons in New Zealand”.	
10	Section 15 amended (Application of Commerce Act 1986 and Crown Entities Act 2004)	
	After section 15(1)(h), insert:	25
	(haa) section 99AA (sharing of information and documents with public service agencies, statutory entities, Reserve Bank, and New Zealand Police):	
11	Section 18 amended (Purpose)	
(1)	After section 18(3), insert:	
(3A)	References in subsections (1), (2), and (2A) to end-users of telecommunications services within New Zealand require the end-users to be in New Zealand, but not necessarily the telecommunications services.	30
(2)	In section 18(4), replace “Subsection (3) is” with “Subsections (3) and (3A) are”.	

12 New section 18A inserted (Territorial scope of Part 2)

After section 18, insert:

18A Territorial scope of Part 2

This Part and Schedule 1, and any secondary legislation made for the purpose of this Part, apply—

- (a) to a person who is an access seeker or an access provider regardless of whether the person is in or outside New Zealand; and
- (b) to a service that is a designated service or a specified service regardless of whether the service is operated (wholly or partially) by means of infrastructure located outside New Zealand, provided the infrastructure is used, or intended to be used, to provide services to persons in New Zealand.

Examples

An overseas person may be an access seeker or an access provider.

A service provided to persons in New Zealand that involves overseas infrastructure may be a designated service or a specified service.

13 Section 80 amended (Interpretation)

In section 80, insert as subsection (2):

- (2) *See also* **section 101A(2)** if this subpart has extra-territorial effect.

14 New section 101A inserted (Territorial scope of Part 3)

After section 101, insert:

101A Territorial scope of Part 3

- (1) This Part and any secondary legislation made for the purpose of this Part apply to a person (**person A**) who provides a telecommunications service to persons in New Zealand—
 - (a) regardless of whether person A is in or outside New Zealand; and
 - (b) regardless of whether the service is operated (wholly or partially) by means of infrastructure located outside New Zealand.
- (2) However, only the revenue derived by person A from persons in New Zealand counts as qualified revenue or as telecommunications revenue for the purposes of the telecommunications development levy or the levy referred to in section 11 (the **levies**).

Examples

An overseas person may be liable to pay a levy if it meets the thresholds for the provisions that apply to that levy (for example, *see* the Telecommunications Operators (Commerce Commission Costs) Levy Regulations 2019).

Telecommunications and Other Matters Amendment Bill	
Part 2 cl 14A	
An overseas person must comply with requests from the Commerce Commission for information needed to determine allocation of the levies.	
14A	<u>New section 156CAA inserted (Enforcement of certain breaches via Radiocommunications Act 1989)</u>
	After section 156C, insert:
156CAA	<u>Enforcement of certain breaches via Radiocommunications Act 1989</u>
	<u>See Part 7A of the Radiocommunications Act 1989 for enforcement of certain breaches referred to in Schedule 4.</u>
15	Section 157 amended (Regulations)
	After section 157(1), insert:
(1A)	Regulations made under this section <u>subsection (1)(ch) (which relate to emergency call services)</u> may provide that the requirements set by the regulations apply to a person—
	(a) regardless of whether the person is in or outside New Zealand; and
	(b) regardless of whether the service is operated (wholly or partially) by means of infrastructure located outside New Zealand.
16	New section 158 inserted (Enforcement of certain breaches via Radiocommunications Act 1989)
	After section 157, insert:
158	Enforcement of certain breaches via Radiocommunications Act 1989
	See Part 7A of the Radiocommunications Act 1989 for enforcement of certain breaches referred to in Schedule 4.
17	New section 250 and cross-heading inserted
	After section 249, insert:
	<i>Miscellaneous</i>
250	Territorial scope of Part 7
	This Part and any secondary legislation made for the purpose of this Part apply to a provider of telecommunication services to consumers in New Zealand, regardless of whether the provider is in or outside New Zealand.
	Example
	Relevant codes set by the Commerce Commission may apply to overseas service providers.
18	New Schedule 4 inserted
	After Schedule 3C, insert the Schedule 4 set out in Schedule 3 of this Act.

Part 3

Amendments to Telecommunications (Interception Capability and Security) Act 2013

19 Principal Act

This **Part** amends the Telecommunications (Interception Capability and Security) Act 2013. 5

20 Section 3 amended (Interpretation)

(1) In section 3(1), replace the definition of **network operator** with:

network operator means a person who, from in or outside New Zealand,—

- (a) owns, controls, or operates a public telecommunications network that is available to persons in New Zealand; or 10
- (b) supplies (whether by wholesale or retail) another person with the capability to provide a telecommunications service to persons in New Zealand 15

(2) In section 3(1), definition of **outsourcing arrangement**, replace “within New Zealand” with “in or outside New Zealand”. 15

(3) In section 3(1), definition of **service provider**, paragraph (a), replace “within” with “in”. 20

21 New section 4A inserted (Territorial scope)

After section 4, insert: 20

4A Territorial scope

This Act applies—

- (a) to a service provider that provides telecommunications services to end-users in New Zealand regardless of whether the service provider is in or outside New Zealand; and 25
- (b) to a network operator regardless of whether it is in or outside New Zealand and whether any of the infrastructure that it relies on is located wholly or partially outside New Zealand.

22 Section 9 amended (Network operators must ensure public telecommunications networks and telecommunications services have full interception capability) 30

In section 9(1), before “in New Zealand”, insert “to persons”.

23 Section 13 amended (Network operators with fewer than 4 000 customers)

In section 13(2)(b), before “in New Zealand”, insert “to persons”.

Part 3 cl 23A	Telecommunications and Other Matters Amendment Bill	
23A	<u>Section 24 amended (Duty to assist)</u> Replace section 24(8) with: (8) <u>See section 121A if the common law defence of foreign state compulsion applies.</u>	
24	<u>Section 90 amended (Enforcement notice may be issued for serious non-compliance)</u> After section 90(2)(b), insert: (c) may take the non-compliance into account, and seek enforcement action, under Part 7A of the Radiocommunications Act 1989.	5
25	<u>New section 121A inserted (Common law defence of foreign state compulsion not affected)</u> After section 121, insert:	10
121A	<u>Common law defence of foreign state compulsion not affected</u> <u>Nothing in this Act affects the application of the common law defence of foreign state compulsion to a network operator or service provider outside New Zealand.</u>	15

Schedule 1

New Schedule 1AA inserted into Radiocommunications Act 1989

s 6

Schedule 1AA

Transitional, savings, and related provisions

5

s 2A

Part 1

**Provision relating to Telecommunications and Other Matters
Amendment Act 2025**

1 Part 7A does not apply to past alleged non-compliance

10

Part 7A does not apply to alleged non-compliance that occurred before the commencement of that Part.

Schedule 2
New Schedule 1AB inserted into Radiocommunications Act 1989

s 7

Schedule 1AB		
Decisions relating to licences in which certain <u>alleged</u> non-compliance may be taken into account under subpart 3 of Part 7A		
s 65H		
1	Decisions relating to licences in which certain <u>alleged</u> non-compliance may be taken into account under subpart 3 of Part 7A	5
(1)	The relevant decisions for the purposes of section 65H are all of the following:	10
	(a) a decision to grant a radio licence (regulation 8):	
	(b) a decision to grant an exemption from the requirement for a radio licence (regulation 10):	
	(c) a decision to consent to a radio licence holder entering into agreements with other persons who wish to communicate on the frequency (or frequencies or frequency band or frequency bands) specified in the licence under regulation 13, if such consent is required:	15
	(d) a decision to consent to the transfer of a radio licence under regulation 15G, if such consent is required:	20
	(e) a decision to transfer a management right for which the manager is the Crown under section 42 to a private entity to create a private management right:	
	(f) a decision to grant a spectrum licence for a management right for which the manager is the Crown (section 48):	25
	(g) a decision to consent to a spectrum licence holder for a management right for which the manager is the Crown entering into agreements with persons wishing to transmit on the frequency specified in the spectrum licence under section 55, if such consent is required:	
	(h) a decision to consent to the transfer of a spectrum licence for a management right for which the manager is the Crown (section 56(2)), provided the spectrum licence provides that the spectrum licence cannot be transferred without the consent of the manager.	30
(2)	In this clause, unless the context otherwise requires,—	
	consent includes an approval or other form of authorisation	35
	regulation means a provision of the Radiocommunications Regulations 2001.	

Schedule 3
New Schedule 4 inserted into Telecommunications Act 2001

s 18

Schedule 4	
Provisions of this Act for which <u>alleged</u> non-compliance may result in action under Part 7A of Radiocommunications Act 1989	
s 458 <u>156CAA</u>	
1 Breaches of telecommunications law to which powers in Part 7A of Radiocommunications Act 1989 apply	
The provisions of this Act referred to in Part 7A of the Radiocommunications Act 1989 are as follows:	10
<i>Designated services and specified services</i>	
1 Section 30S(1)(b) (access provider fails to comply with request from access seeker to supply designated access service or specified service).	
2 Section 30T(3) (access provider fails to comply with request from access seeker regarding section 27 determination).	15
3 Section 45(2) (access provider fails to comply with request from Commerce Commission to calculate price).	
<i>Telecommunications service obligations</i>	
4 Section 10B (provider of telecommunications services fails to supply information to verify revenue) (as inserted by section 4 of the Telecommunications Amendment Act 2025).	20
5 Section 11(1) (liable person fails to pay levy referred to in section 11).	
6 Section 82 (liable person fails to produce information on qualified revenue).	25
7 Section 83 (liable person fails to produce information for purposes of liability allocation determination).	
8 Section 89(1) (liable person fails to pay telecommunications development levy).	
<i>Miscellaneous</i>	30
9 Section 156A(1)(n) (failing to comply with regulations made in relation to emergency call services).	
10 Any other requirements in regulations made under Part 5 of this Act that identify the requirement as one that is section 157(1)(ch) (which relates to emergency call services) that are identified in those regulations as <u>requirements that are subject to the enforcement regime in Part 7A of the Radiocommunications Act 1989.</u>	35

	<i>Consumer matters</i>	
11	Section 156A(1)(o) (retail provider fails to comply with Commission RSQ code).	
12	Section 156A(1)(p) (retail provider fails to comply with Commission 111 contact code).	5
13	Section 240A (telecommunications service provider whose revenue exceeds \$50 million fails to become member of industry dispute resolution scheme) (as inserted by section 33 of the Telecommunications Amendment Act 2025).	

	Legislative history	
21 October 2025	Introduction (Bill 210–1)	
18 November 2025	First reading and referral to Economic Development, Science and Innovation Committee	